

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC MARTIN,

Plaintiff,

v.

ROBERT HURST, et al.,

Defendants.

Case No. 2:24-cv-11155

HONORABLE STEPHEN J. MURPHY, III

ORDER DENYING MOTION TO REOPEN CASE [10]

The Court dismissed the instant case without prejudice for failure to pay the filing fee. ECF 5. Plaintiff moved to reopen the case because he sent a \$5.00 money order with the motion. ECF 10, PgID 24–25. But the filing fee is \$405.00. The Court therefore will deny the motion because Plaintiff still failed to pay the required fee.

To be sure, the filing fee for a habeas petition is \$5.00. And Plaintiff captioned his complaint “habeas corpus.” ECF 1, PgID 1. “[A] district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). But Plaintiff did not allege or indicate in any of his filings that he is currently in custody pursuant to the judgment of a State court. Rather, Plaintiff’s complaint concerns the unlawful taking of his motorcycle, malicious prosecution, and violation of his due process rights in an ongoing criminal case. *See* ECF 1. And Plaintiff asks for injunctive relief from the State prosecution. *See, e.g., id.* at 2. The fact that Plaintiff

titled his complaint “Habeas Corpus,” however, does not override a finding that the complaint itself is not a petition for writ of habeas corpus but a civil complaint for the violation of constitutional rights. Plaintiff therefore was required to pay the civil filing fee of \$405.00 or to submit an application to proceed in forma pauperis. *See* ECF 3.

WHEREFORE, it is hereby **ORDERED** that the motion to reopen the case [10] is **DENIED**.

IT IS FURTHER ORDERED that the Financial Department must **FORTHWITH REFUND** the payment, Receipt No. 150011946, to the Plaintiff.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: September 6, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 6, 2024, by electronic and/or ordinary mail.

s/ R. Loury
Case Manager